

REMARKS

Allowable Subject Matter

[0003] Applicant appreciates that the Examiner has acknowledged that claims 1, 3-8 and 10-15 are allowable. However the Examiner rejects the remaining claims 16 and 18-23. The Applicant responds herein to the rejections for those claims having a subject matter that has not yet been recognized by the Examiner as allowable. Claims withdrawn or cancelled herein are 2, 9, and 17.

Statement of Substance of Interview

[0004] The Examiner graciously talked with me—the undersigned representative for the Applicant—on 31 Oct. 2007. Applicant greatly appreciates the Examiner's willingness to talk. Such willingness is invaluable to both of us in our common goal of an expedited prosecution of this patent application.

[0005] During the interview, I discussed how the claims differed from the cited art, namely Price. More specifically, how Price fails to disclose an extensible database of executable-image formats.

[0006] Accordingly, Applicant submits that the pending claims are allowable over the cited art of record for at least the reasons discussed during the interview.

Formal Request for an Interview

[0007] If the Examiner's reply to this communication is anything other than allowance of all pending claims, then I formally request an interview with the

Examiner. I encourage the Examiner to call me—the undersigned representative for the Applicant—so that we can talk about this matter so as to resolve any outstanding issues quickly and efficiently over the phone.

[0008] Please contact me or my assistant to schedule a date and time for a telephone interview that is most convenient for both of us. While email works great for us, I welcome your call to either of us as well. Our contact information may be found on the last page of this response.

Substantive Matters

Claim Rejections under § 102

[0009] The Examiner rejects claims 16 and 18-23 under §102. For the reasons set forth below, the Examiner has not shown that cited references anticipate the rejected claims.

[0010] Accordingly, Applicant respectfully requests that the § 102 rejections be withdrawn and the case be passed along to issuance.

[0011] The Examiner's rejections are based upon the following references alone and/or in combination:

- **Price:** *Price*, US Patent No. 6,738,932 (issued May 18, 2004);

Overview of the Application

[0012] The Application describes a technology for providing an exemplary extensible loader to install customizable loaders so that OS features can be extended and the OS can execute otherwise non-native executable images.

Cited References

[0013] The Examiner cites Price as its primary reference in its anticipation rejections.

Price

[0014] Price describes a technology for identifying software executing on a computer system from a memory image defining at a particular time a state of the executing software. The identification of the software includes using a comparison file which stores executable signatures corresponding to pre-selected executables that can be run on the computer system.

Anticipation Rejections

[0015] Applicant submits that the anticipation rejections are not valid because, for each rejected claim, no single reference discloses each and every element of that rejected claim.¹ Furthermore, the elements disclosed in the single reference are not arranged in the manner recited by each rejected claim.²

Based upon Price

[0016] The Examiner rejects claims 16 and 18-23 under 35 U.S.C. § 102(e) as being anticipated by Price. Applicant respectfully traverses the rejections of these claims. Based on the reasons given below, Applicant asks the Examiner to withdraw the rejection of these claims.

¹ "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987); also see MPEP §2131.

² See *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

Independent Claim 16

[0017] The Examiner indicates (Action, p. 4-5) the following with regard to this claim:

locating an executable image on a computer media;
investigating information related to the executable image,
thereby identifying the format of the executable image, wherein
during the investigating, ***an extensible database of executable-
image formats is accessed;***
based upon the identified format of the image,
initiating a loader associated with that identified format;

[0018] The Examiner cites Fig 4 and Col 9 Line 1 through Col 10 Line 11 of Price with respect to these claimed elements. However, the cited portions relate to matching an executable being run on a computer during a system crash, with a comparison file which includes executable signatures corresponding to pre-selected executables that can be run on the computer system.

[0019] The matching in Price is determined by comparing the size of the executable with the executable signatures that have total byte length or size. This comparison identifies the executable itself and not the format of the executable. As pointed out by the Examiner, Price discloses "...file identification involves identifying the different file formats used to distribute kernel software in the computer system....". (Price, Col 5 Lines 5-60) However, Price fails to disclose that

executable-image formats are identified by accessing an extensible database of executable-image formats.

[0020] Applicant submits that Price does not anticipate this claim because it does not show or disclose the following elements as recited in this claim (with emphasis added):

- “wherein during the investigating, ***an extensible database of executable-image formats is accessed***”
- “***based upon the identified format of the image, initiating a loader associated with that identified format;***”

[0021] Consequently, Price does not disclose all of the claimed elements and features of this claim. Accordingly, Applicant asks the Examiner to withdraw the rejection of this claim.

Independent Claim 21

[0022] This independent claim includes the element:

- “loading one or more executable images into a computer memory, such an image having one or more formats ***defined by an extensible database of executable-image formats;***”

[0023] As explained with respect to claim 16 above, Price fails to disclose an “extensible database” that includes definitions relating to executable-image formats. Consequently, Price does not disclose all of the claimed elements and

features of this claim. Accordingly, Applicant asks the Examiner to withdraw the rejection of this claim.

Dependent Claims 18-20 and 22-23

[0024] These claims ultimately depend upon independent claims 16 and 21. As discussed above, claims 16 and 21 are allowable. It is axiomatic that any dependent claim which depends from an allowable base claim is also allowable. Additionally, some or all of these claims may also be allowable for additional independent reasons.

Conclusion

[0025] All pending claims are in condition for allowance. Applicant respectfully requests reconsideration and prompt issuance of the application. If any issues remain that prevent issuance of this application, the **Examiner is urged to contact me before issuing a subsequent Action.** Please call/email me or my assistant at your convenience.

Respectfully Submitted,

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